

**IN THE DISTRICT COURT OF THE UNITED STATES
for the Western District of New York**

THE UNITED STATES OF AMERICA

v.

DAVID GAMBINO

(Counts 1-4, 16, 17, 18-22, 35)

FILIPPO INGLIMA

(Counts 2-4, 17, 35)

DAVID HEIDT

(Counts 2, 3, 8-14, 23-33, 35)

PATRICK HIGGINS

(Counts 2-4, 15, 35)

JAVIER FELICIANO

(Count 2)

PATRICK CALLEA, JR.

(Counts 2, 3)

SALVATORE TAFARELLA

(Counts 2, 3)

DANA ISER

(Count 2)

STEVEN GODINHO

(Counts 2, 5-7)

JONATHON SCHIAVONE

(Count 2)

JASON SCHIAVONE

(Count 2, 34)

DAVID KOCH

(Count 2)

ROSALIE TOTH

(Count 2)

DWAYNE BRINSON

(Count 2)

TIMOTHY HIGGINS

(Count 2)

JASON BRENNAN

(Counts 2, 18-22)

RICHARD FOOSE

(Counts 2, 26-29)

DENNIS HEIDT

(Counts 2, 24, 25)

VERONICA IRENE

(Counts 2, 12, 30)

JONATHAN SAWULAK

(Counts 2, 23)

MARK PLAUMAN

(Counts 2, 31-33)

JAMES ARONICA

(Count 2)

PETER DANNA

(Count 2)

SALVATORE MONTANA

(Count 2)

MAY 2008 GRAND JURY
(Impaneled 5/02/08)

INDICTMENT

Violations:

21 U.S.C. §§ 841(a)(1),
843(b), 846, 848(a) and 963

18 U.S.C. §§ 922(g)(3)
and 1956(h)

COUNT 1

The Grand Jury Charges that:

Between in or about 2005, the exact date being unknown, and on or about November 17, 2009, in the Western District of New York, and elsewhere, the defendant, DAVID GAMBINO, did knowingly, willfully, intentionally and unlawfully engage in a Continuing Criminal Enterprise in that he did violate Title 21, United States Code, Sections 841(a)(1), 843(b), 846, 952(a), 953(a) and 963, which violations were part of a continuing series of violations of said statutes undertaken by the defendant, DAVID GAMBINO, in concert with five or more other persons, known and unknown, with respect to whom the defendant, DAVID GAMBINO, occupied a position of organizer, supervisor and manager, and from which continuing series of violations the defendant, DAVID GAMBINO, obtained substantial income and resources; all in violation of Title 21, United States Code, Section 848(a).

COUNT 2

The Grand Jury Further Charges that:

Between in or about 2005, the exact date being unknown, and or about November 17, 2009, in the Western District of New York, and elsewhere, the defendants, DAVID GAMBINO, FILIPPO INGLIMA, DAVID HEIDT, PATRICK HIGGINS, JAVIER FELICIANO, PATRICK CALLEA, JR., SALVATORE TAFARELLA, DANA ISER, STEVEN GODINHO, JONATHON SCHIAVONE,

JASON SCHIAVONE, DAVID KOCH, ROSALIE TOTH, DWAYNE BRINSON, TIMOTHY HIGGINS, JASON BRENNAN, RICHARD FOOSE, DENNIS HEIDT, VERONICA IRENE, JONATHAN SAWULAK, MARK PLAUMAN, JAMES ARONICA, PETER DANNA and SALVATORE MONTANA, did knowingly, willfully and unlawfully, combine, conspire and agree together and with others, known and unknown, to commit offenses against the United States, that is, to possess with intent to distribute, and to distribute, 1,000 kilograms or more of a mixture and substance containing marijuana, a Schedule I controlled substance; to possess with intent to distribute, and to distribute, 5 kilograms or more of a mixture and substance containing cocaine, a Schedule II controlled substance; and to possess with intent to distribute, and to distribute, 500 grams or more of a mixture and substance containing methamphetamine, a Schedule II controlled substance, benzylpiperazine (BZP), a Schedule I controlled substance, and 3,4-methylenedioxymethamphetamine (MDMA), a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A); all in violation of Title 21, United States Code, Section 846.

COUNT 3

The Grand Jury Further Charges that:

Between in or about 2005, the exact date being unknown, and or about November 17, 2009, in the Western District of New York, and

elsewhere, the defendants, DAVID GAMBINO, FILIPPO INGLIMA, DAVID HEIDT, PATRICK HIGGINS, PATRICK CALLEA, JR. and SALVATORE TAFARELLA, did knowingly, willfully and unlawfully combine, conspire and agree together and with others, known and unknown, to commit an offense against the United States, that is, to import into the United States from a place outside thereof, that is, Canada, 1,000 kilograms or more of a mixture and substance containing marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 952(a), 960(a)(1), and 960(b)(1)(G); all in violation of Title 21, United States Code, Section 963.

COUNT 4

The Grand Jury Further Charges that:

Between in or about 2005, the exact date being unknown, and or about November 17, 2009, in the Western District of New York, and elsewhere, the defendants, DAVID GAMBINO, FILIPPO INGLIMA and PATRICK HIGGINS, did knowingly, willfully and unlawfully combine, conspire and agree together and with others, known and unknown, to commit an offense against the United States, that is, in violation of Title 18, United States Code, 1956(a)(2)(A), to transport, transmit and transfer monetary instruments and funds, that is, United States currency, from a place in the United States to a place outside the United States, that is, Canada, with the intent

to promote the carrying on of specified unlawful activity, that is, the possession with intent to distribute and the distribution of marijuana, a Schedule I controlled substance, and conspiracy to do so, in violation of Title 21, United States Code, Sections 841(a)(1) and 846; all in violation of Title 18, United States Code, Section 1956(h).

COUNT 5

The Grand Jury Further Charges that:

On or about January 7, 2009, in the Western District of New York, the defendant, STEVEN GODINHO, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a quantity of a mixture and substance containing cocaine, a Schedule II controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 6

The Grand Jury Further Charges that:

On or about January 15, 2009, in the Western District of New York, the defendant, STEVEN GODINHO, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a quantity of a mixture and substance containing cocaine, a Schedule II controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 7

The Grand Jury Further Charges that:

On or about January 20, 2009, in the Western District of New York, the defendant, STEVEN GODINHO, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a quantity of a mixture and substance containing cocaine, a Schedule II controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 8

The Grand Jury Further Charges that:

On or about February 18, 2009, in the Western District of New York, the defendant, DAVID HEIDT, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a quantity of a mixture and substance containing benzyloperazine (BZP), a Schedule I controlled substance, a Schedule I controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 9

The Grand Jury Further Charges that:

On or about February 26, 2009, in the Western District of New York, the defendant, DAVID HEIDT, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a

quantity of a mixture and substance containing benzylpiperazine (BZP), a Schedule I controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 10

The Grand Jury Further Charges that:

On or about March 23, 2009, in the Western District of New York, the defendant, DAVID HEIDT, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute 50 grams or more of a mixture and substance containing methamphetamine, a Schedule II controlled substance, benzylpiperazine (BZP), a Schedule I controlled substance, and 3,4-methylenedioxymethamphetamine (MDMA), a Schedule I controlled substance; all in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B).

COUNT 11

The Grand Jury Further Charges that:

On or about April 20, 2009, in the Western District of New York, the defendant, DAVID HEIDT, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute 50 grams or more of a mixture and substance containing methamphetamine, a Schedule II controlled substance, benzylpiperazine (BZP), a Schedule I controlled substance, and 3,4-

methylenedioxymethamphetamine (MDMA), a Schedule I controlled substance; all in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B).

COUNT 12

The Grand Jury Further Charges that:

On or about July 2, 2009, in the Western District of New York, the defendants, DAVID HEIDT and VERONICA IRENE, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute 50 grams or more of a mixture and substance containing methamphetamine, a Schedule II controlled substance, benzyloperazine (BZP), a Schedule I controlled substance, and 3,4-methylenedioxymethamphetamine (MDMA), a Schedule I controlled substance; all in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B), and Title 18, United States Code, Section 2.

COUNT 13

The Grand Jury Further Charges that:

On or about July 30, 2009, in the Western District of New York, the defendant, DAVID HEIDT, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a quantity of a mixture and substance containing cocaine, a Schedule

II controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 14

The Grand Jury Further Charges that:

On or about August 13, 2009, in the Western District of New York, the defendant, DAVID HEIDT, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a quantity of a mixture and substance containing cocaine, a Schedule II controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 15

The Grand Jury Further Charges that:

On or about March 19, 2009, in the Western District of New York, the defendant, PATRICK HIGGINS, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a quantity of a mixture and substance containing marijuana, a Schedule I controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 16

The Grand Jury Further Charges that:

On or about August 31, 2009, in the Western District of New York, the defendant, DAVID GAMBINO, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a quantity of a mixture and substance containing marijuana, a Schedule I controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 17

The Grand Jury Further Charges that:

On or about October 7, 2009, in the Western District of New York, the defendants, DAVID GAMBINO and FILIPPO INGLIMA, did knowingly, intentionally and unlawfully possess with intent to distribute and distribute a quantity of a mixture and substance containing marijuana, a Schedule I controlled substance; all in violation of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 2.

COUNTS 18-33

The Grand Jury Further Charges that:

On or about the dates set forth below, in the Western District of New York, and elsewhere, the defendants set forth below, did knowingly, intentionally and unlawfully use a communication

facility, that is, a telephone, in committing, causing and facilitating the commission of acts constituting felonies under Title 21, United States Code, Sections 841(a)(1) and 846, that is, the possession with intent to distribute, and the distribution, of controlled substances, and conspiracy to do so; all in violation of Title 21, United States Code, Section 843(b).

COUNT	DEFENDANTS	DATE
18	DAVID GAMBINO JASON BRENNAN	July 28, 2009
19	DAVID GAMBINO JASON BRENNAN	August 23, 2009
20	DAVID GAMBINO JASON BRENNAN	September 20, 2009
21	DAVID GAMBINO JASON BRENNAN	November 10, 2009
22	DAVID GAMBINO JASON BRENNAN	November 11, 2009
23	DAVID HEIDT JONATHAN SAWULAK	June 23, 2009
24	DAVID HEIDT DENNIS HEIDT	June 23, 2009
25	DAVID HEIDT DENNIS HEIDT	September 24, 2009
26	DAVID HEIDT RICHARD FOOSE	June 27, 2009
27	DAVID HEIDT RICHARD FOOSE	June 30, 2009
28	DAVID HEIDT RICHARD FOOSE	July 1, 2009
29	DAVID HEIDT RICHARD FOOSE	July 5, 2009

COUNT	DEFENDANTS	DATE
30	DAVID HEIDT VERONICA IRENE	July 5, 2009
31	DAVID HEIDT MARK PLAUMAN	August 31, 2009
32	DAVID HEIDT MARK PLAUMAN	September 5, 2009
33	DAVID HEIDT MARK PLAUMAN	September 15, 2009

COUNT 34**The Grand Jury Further Charges that:**

On or about September 7, 2007, in the Western District of New York, the defendant, JASON SCHIAVONE, then being an unlawful user of marijuana, a Schedule I controlled substance, and cocaine, a Schedule II controlled substance, unlawfully did knowingly possess, in and affecting commerce a firearm, namely, a Remington 12 gauge shotgun, bearing serial number X274353M; all in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

COUNT 35**The Grand Jury Further Charges that:****Forfeiture Allegation**

As a result of committing the controlled substance offenses alleged in this Indictment, the defendants, DAVID GAMBINO, FILIPPO INGLIMA, DAVID HEIDT and PATRICK HIGGINS, and each of them jointly and severally, shall forfeit to the United States any and all

property constituting and derived from any proceeds obtained, directly and indirectly, as a result of such violations, and any and all property used, and intended to be used, in any manner and part, to commit and to facilitate the commission of such violations, including, but not limited to:

Monetary Amount

The sum of approximately One Million Dollars (\$1,000,000) in United States currency.

Real Property

The premises, buildings, appurtenances, improvements, and real property located at 179 Cindy Drive, Williamsville, New York, and more fully described in a deed recorded in the Erie County Clerk's Office on July 10, 2006 in Book 11116 of Deeds at Page 1421.

Motor Vehicles

1. One 2004 BMW 745i Motor Vehicle, Vehicle Identification No. WBAGN63404DS51436, registered to David A. Gambino;
2. One 2002 Chevrolet Avalanche Motor Vehicle, Vehicle Identification No. 3GNEK13T92G193556, registered to David A. Gambino;
3. One 2002 GMC Envoy Motor Vehicle, Vehicle Identification No. 1GKDT13S922137543, registered to Filippo Inghima;
4. One 1998 BMW Motor Vehicle, Vehicle Identification No. WBAGK2326WDH69816, registered to Dennis R. Heidt; and
5. One 2008 Jeep Commander Motor Vehicle, Vehicle Identification No. 1J8HG48K78C129853, registered to Patrick J. Higgins.

If any of the property described above as being subject to forfeiture, as a result of any act or omission of a defendant,

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty,

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property.

All pursuant to Title 21, United States Code, Sections 853(a)(1), 853(a)(2) and 853(p).

DATED: Buffalo, New York, November 18, 2009.

KATHLEEN M. MEHLTRETTER
United States Attorney

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A TRUE BILL:

S/FOREPERSON
FOREPERSON